

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Partee, Minors

UNPUBLISHED

June 17, 2010

No. 295184

Oakland Circuit Court

Family Division

LC No. 09-761688-NA

Before: HOEKSTRA, P.J., and MARKEY and DAVIS, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(ii), (b)(iii), (g), and (j). We affirm.

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been met by clear and convincing evidence and that termination is in the best interest of the children. MCL 712A.19b(5); *In re Sours*, 459 Mich 624, 632-633; 593 NW2d 520 (1999). The trial court's decision terminating parental rights is reviewed for clear error. MCR 3.977(J); *In re Trejo Minors*, 462 Mich 341, 355-357; 612 NW2d 407 (2000); *Sours*, 459 Mich at 632-633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003); *In re Miller*, 433 Mich 331, 337; 455 NW2d 161 (1989). Regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. MCR 2.613(C); *Miller*, 433 Mich at 337.

Termination of parental rights was proper under MCL 712A.19b(3)(b)(ii), (b)(iii), and (j) because respondent had the opportunity to prevent the abuse perpetrated by her boyfriend, and the children would likely be harmed again if returned to respondent's care. Respondent was exposed to domestic violence as a child and became involved in domestic violence relationships with the children's father and with her most recent boyfriend, Givens, who severely abused A. Partee on several occasions. Although respondent was sent to domestic violence counseling in 2007, she never completed services. She returned to an abusive relationship with the children's father and later became involved in another domestic violence relationship with Givens. Respondent was aware of Givens's assaultive nature from the way he treated her, and she could have prevented A. Partee's injuries had she not allowed her children unsupervised time with a man as violent as Givens.

Although respondent had the opportunity to recognize Givens's abusive nature, she was unable to do so. Respondent's inability to recognize the danger Givens posed to her children

demonstrated that she was an unfit caregiver. After respondent left the infant A. Partee alone in a car with Givens and returned to find blood in the child's mouth, it never occurred to her that Givens could have caused the injury. Even though respondent took A. Partee to the doctor many times for a variety of health concerns, she was unaware of A. Partee's broken ribs, which were found to have been healing at the time of the child's most recent injuries. Although respondent may have been aware that something was wrong with her child, she lacked appropriate judgment. She was unable to identify the abuse of her child or protect her from it. Moreover, respondent's marijuana use, which continued to be a problem throughout the case, likely contributed to the impairment of her judgment and further exposed all of the children to risk of harm.

Thus, respondent demonstrated an inability to protect her children and herself from domestic violence. She repeatedly prioritized her relationships with men over her children and failed to address the domestic violence to which she was repeatedly attracted. If the children were returned to respondent's care, her poor judgment would continue to expose them to risk of harm under MCL 712A.19b(3)(j). Under MCL 712A.19b(3)(b)(ii) and (b)(iii) there was a reasonable likelihood that the children would suffer abuse by Givens or another of respondent's boyfriends in the future.

Under MCL 712A.19b(3)(g), respondent was unable to provide proper care and custody of her children. Although respondent provided proof of employment to the caseworkers, at the time of the permanent custody hearing she did not have suitable, independent housing. Moreover, her history of prioritizing her relationships, her failure to recognize threats to her children, and her hostile behavior toward the children's caregivers showed that she was not sensitive to or aware of the children's emotional needs. Respondent never demonstrated self-control or proper behavior to ensure that the children's placements would be secure in effort to protect their emotional well-being. Likewise, respondent lied regarding her whereabouts when A. Partee was injured rather than cooperating fully with Children's Protective Services and medical personnel. In so doing, she again prioritized herself by being more concerned with how she might be perceived than with her daughter's protection.

Furthermore, respondent admitted to using marijuana daily and, although she stated that she could control her marijuana use, her recent positive drug screen demonstrated otherwise. Even when faced with the prospect of termination of her parental rights respondent failed to stay drug free. Respondent's drug use impeded her ability to provide proper care and custody of her children. Thus, termination of parental rights was proper under MCL 712A.19b(3)(g).

The trial court also did not err in its best interest determination. MCL 712A.19b(5). Termination of parental rights was in the best interest of the children because respondent was unable to provide them with a safe and stable home environment. Respondent had been unable to protect the children from domestic violence or physical assault. She had also not demonstrated an ability to refrain from using illegal drugs. It was in the children's best interest to be with a caregiver who can prioritize their care and well being over substance abuse. Although respondent loved her children and wanted to care for them, she proved unable to protect them or meet their emotional needs. It was in the children's best interest to be with a caregiver who both loved them, could keep them safe, and could provide for their basic needs. Respondent's problems will require a great deal of treatment and will not improve in a short period of time. Termination of her parental rights was therefore in the children's best interests.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Jane E. Markey

/s/ Alton T. Davis